DAIL Advisory Board
October 11, 2012
VTrans Boardroom, Montpelier

Attendees

Board Members: Peter Cobb, Bill Ashe, Sarah Launderville, Harriet Goodwin, Steve Pouliot, Jim Coutts, Robert Borden, Susan Gordon, Diane Novak, Nancy Lang, Max Barrows, Nancy Breiden, Janet Cramer, Beth Stern

Guests: Richard Atkinson, Laura Pelosi, Marlys Waller

State Employees: Susan Wehry, Camille George, Lisa Parro, Jackie Rogers, Suzanne Leavitt, Fran Keeler

Meeting Minutes for September 13, 2012 were approved as written.

I. Office of Public Guardian (OPG), DAIL – Jackie Rogers

Under Vermont law, the Office of Public Guardian (OPG) is authorized to provide guardianship for adults with developmental disabilities, or who are 60 years of age or older with a disabling cognitive impairment who require assistance with basic life decisions and for whom a suitable and willing private guardian cannot be found.

A public guardian may be appointed to a person if they do not have any family, or they do not have any family members who are interested, able, or suitable to become the person's guardian. Sometimes this becomes a judgment call, and is ultimately be decided by the court.

The guardians try to visit a person in their home at least once a month, with meetings, phone calls and other activities in between. There are two separate caseload tracks as the systems and supports are different: one is for older adults and one is for adults with developmental disabilities. The number of cases involving elders is small compared to the number of cases involving people with developmental disabilities.

The public guardians are located in 13 areas of the state. There are guardians stationed all over the state, except for the Northeast Kingdom; however, guardians do travel to this area for coverage. The Northeast Kingdom is the only area in which a guardian does not begin their day. Public guardians are on call all of the time, and they may be required to work in the evening and/or on the weekends.

A guardianship can be limited or full, for example, with an elder they may only need financial guardianship. The typical caseloads average around 30 cases; however, the work for each caseload really varies depending on the needs of the people in the caseload. Guardianship decisions can range from deciding whether a person takes an antibiotic to whether a person

should be put on life support. It may include other functions such as representative payee services, limited target case management, identifying alternative programs for a person, working with private guardians, and public education as well. A guardian may discover exploitation within a case, in which they will make a report to Adult Protective Services.

The authority in both Title 18 and Title 14 statutes require that guardianship services must encourage self-determination and independence. Guardians begin with the assumption that a person can make their own decisions. They take it very seriously when taking privileges away from a person because of their own safety and safety of others. The ongoing part of guardianship is to know a person well enough to know what they want. Decisions are made in the best interest of the individual. The guardian has final say in a decision; however, they cannot force people to do something.

Many of the public guardians have had long term relationships with the individuals on their caseload. There is clinical supervision for the guardians to ensure that boundaries are not crossed.

Do Not Resuscitate (DNR) orders have a separate process for elders and people with developmental disabilities. A DNR for elders goes through the probate court where the person speaks with the judge. For people with developmental disabilities, there is an Ethics Committee that reviews a person's life, medical issues, their thoughts of end of life care, and the committee makes a recommendation to the guardian. There are many factors and complex medical issues to consider for a DNR (intubation, defibrillator, etc.) and the decision is revisited to be sure adequate thought has been put into the decision. (Everyone was encouraged to start advanced health care planning. The Vermont Ethics Network can assist with this, as well as a lot of the home health organizations.)

People can get representative payees without a public guardian. There are one or two Area Agencies on Aging that are researching the possibility of doing this. Beth Stern will be discussing this further with Jackie. Jackie will also be collaborating with Green Mountain Self Advocates about working with individuals with developmental disabilities so they may become their own guardians.

Recently, OPG began tracking the reasons for having a public guardian appointed. Currently 42% of the people with developmental disabilities who have public guardians were previously in DCF custody as children. The reasons for public guardianship for elders are harder to quantify, and additional research is being done on this. Jackie continues to review the data from the past years to determine how information was recorded and tracked in the past in order to find any trends.

Over time, there has been an increase in the number of people under public guardianship, which puts increasing pressure on the program. This may be caused by an increased awareness of identifying people in need of the services, more people entering the system then are taken off, and more complex cases that need additional work. The budget for the Public Guardian Program has been level funded for the last 2, or 3, years and most of the expenses are related to

staffing. The department is looking closely at the public guardian program this year. (The board would like to see the FY13 budget in the minutes.)

Last year, the office of public guardian purchased tablets and iPhones for all of the staff. The iPhones have given them a great advantage. The tablets allows the guardians to access the SAMS database (Social Assistance Management System) to obtain information about where people live, who is assigned as their guardian, among other information.

The Office of Public Guardian is beginning to use Results-Based Accountability (RBA) to capture the value and results of the public guardian program. The meeting attendees were asked what results should an individual get from the public guardian program:

- Safety and wellbeing
- Ability to make choices of their lives, honored and respected
- Increased independence; Individual independence
- Staff consistency; well-being of staff
- Financial stability of individual
- Leaving the program; Where possible get off program
- Supporting growth in the individual
- Problem solving skills; absorb information and make informed decisions
- Not encouraging or developing dependence on guardian
- Standardize dimensions of the relationship; as caseload pressures increase, erosion of metric to trigger what point problematic
- Sense of well-being, and physical well being
- Outside entities less pressures and how to make decisions in a coordinated way. Lots of people spending lots of time in uncoordinated way – programmatic result. Technical assistance to a struggling team – not necessarily guardianship.
- OPG cannot petition for guardianship itself.
- Increase public awareness of OPG; educating the public of what services and who to go to; Increased education about who/where to call for guardianship;
- More trainings for private guardians, bigger pool and better service
- Those on guardianship stay out of correctional system/criminal justice process. They are active members of the community/society.

Some indicators that may be used as measures:

- Safety: Critical incident reports; ER visits; victims of crime; financial; safe living conditions, access to food, water, etc;
- Elderly falls/food; Use Blueprint for Health standardized questions, National Quality Health Care (NQHC), scores about how decision making being done (Are guardians friendly, unkind, do they listen, etc.)
- Work on indicators that will lead into the goal of DAIL, and AHS Strategic Plan.

Programmatic end:

- Indicators – increase public awareness – referrals, applications, for private as well as public; people going to the right places; people feel problems being addressed; things in proper place/order; could improve education with courts with assessment (program does not control.) Challenging of which way it should go in earlier interventions could go either way and which way should we go.

II. Commissioner Updates

When spending the public dollar, the State needs to be able to show what we are doing, how well it is being done, and if anything is better due to the results. The State and many community partners are learning how to use the Results Based Accountability language, and DAIL is trying to apply this to our programs. This is very challenging with a complex system, and is a work in progress.

Choice for Care - The Commissioner met with people from the Home Health Agencies and AAA to discuss the unused FY12 allocation. The freeze on the moderate needs caseload was removed in February 2011, and it has taken at least a year for providers to rebound from this. A year ago, DAIL revisited the policy about separate entities, and is now supporting Home Health Agencies who want a separate entity status. So far, there is one home health agency, and two more home health agencies that may be interested. DAIL is revisiting whether to add Flexible Choices to Moderate Needs, where the eligible people would go directly through ARIS, and there is no waiting for services. A 1.3 million dollar reserve has been kept.

DAIL reports there has been no waiting list for high needs since last Spring and there is no state level waiting list for moderate needs; however, agencies compile the information differently and at the provider level they are reporting 430 people are waiting for moderate needs services. It is the practice of some of the providers to put a person on a waiting list even if services are not needed at the time, in order to be able to get services when they are needed. This is an ongoing discussion and DAIL will reissue the process that explains putting someone on moderate needs according to the Choices for Care manual.

Bayada offered their workforce if additional help was necessary for people receiving moderate need services; however, the members of the Vermont Assembly of Home Health Agencies (VAHHA)l said this was not necessary. Generally staffing is not an issue for 8-5, the staffing issue arises with the odd hours – evenings and weekends. DAIL is researching a better data collection process in order to get a better understanding of this issue.

UMass of Worcester produces a white paper on a specific CFC topic every year. This year they will be doing a report on dementia. They will be talking with the Alzheimer's Association, and putting together some focused activities for the AAA and home health agencies to ensure Vermont can support these individuals in community care. An increase of family caregivers and the pool of people, who provide services, expand the funding for respite program, ensure providers are adequately prepared, and additional outreach to Vermonters about services and supports available are some areas that need to be examined.

Money Follows the Person (MFP) program is a program to assist individuals in moving out of a nursing home into a home or apartment. The quarterly report shows that MFP has placed/supported 20 people in moving from a nursing home to another setting. The per person cost is unknown; however, it is quite high. The funding comes from a federal (CMS) grant. There will be a MFP Conference on 11/6 in Randolph.

Health Care Reform - There are no additional updates related to health care reform. The State Innovations Model (SIM) grant has been submitted; and the State is awaiting a response. The grant would allow the State to test pay performance and bundle models and also includes components to focus on the quality of the patient experience and patient care. This grant is not directly linked to long-term services and supports, however, they are connected.

Division of Licensing and Protection -. There are currently 2 Adult Protective Services (APS) investigator positions under, and caseloads are ranging at, or below, 30 cases. The financial exploitation unit is doing very well, and is continuing to put efforts into intervention and prevention. DLP continues to work with community partners and law enforcement.

Consumer Protection - The Consumer Protection Workgroup about home solicitation sales continues its work. There has been some discussion about increased fines for all situations, as it is very challenging to define specific parameters. The Attorney General's office is conducting a survey to obtain more specific information, and a report will be submitted to the legislature about whether the proposed law is necessary, or a different or better law is necessary. Once the report has been completed, the Commissioner will pass the report onto the DAIL Advisory Board

State Budget - The budget bill language from last year requires the involvement of all Vermonters in developing a state budget, including persons with developmental disabilities. During the August DAIL Advisory Board meeting, there was a broad representation for input on the budget. Commissioner Larson, Department of Vermont Health Access, is scheduling some meetings with the advocacy groups that are requesting to meet. The Agency on Administration is going to give additional guidance of transparency to the agency Secretary's and Commissioner's.

III. Board Updates

GMSA has collaborated with other organizations in running 13 Vermont candidate forums throughout the state. Individuals will hear from their local legislators, as well as testify about the issues they deal with every day and ask questions of their local legislators.

Max received the Roland Johnson Award at the National Self Advocates Conference. (Roland Johnson was a person with a disability that lived in a facility and pushed for people to live in the community; and was the founder of self-advocates becoming empowered.)

GMSA held a disability awareness training for prosecutors, in which 30 prosecutors attended.

Max was invited to Washington, DC on Tuesday to present to the Commissioner of the national organization on disability about long term management of services and Vermont's system. This information will be used in a report about the inclusion of people with a disability in the community.

The State Independent Living Council (SILC) has the charge to develop a plan for independent living and will hold community feedback forums in Johnson, Burlington and two other locations. This is a time people can give their feedback about what they would like to see in the state plan. Sarah will send a Save the Date flyer.

COVE has scheduled a free forum on senior issues with the state representatives. For more information contact 229-4731 or gini@vermontelders.org

The duals project and medical model would be a topic to revisit for a future DAIL Advisory Board meeting.

Nancy Breiden reported that as the transition of the Children's Personal Care Services (CPCS) program occurs, many families receiving Children's Personal Care services will lose a range of services, and respite support will no longer be funded under the state plan which will create some challenges for families. The initial letters that were mailed to the families appeared to give them one year to transition; however, they only have 6 months to transition the services, with 2 month additional increments, if requested by the individual. Camille represents DAIL on the Integrated Family Services (IFS) Senior Management Team. She reported that CPCS staff are following up with both families and providers to ensure that they are connecting to review each child's strengths and needs and to formulate a transition plan that includes appropriate services to support the child and family. Depending on the individual, this may include personal care, but other services as well, such as behavioral intervention, skills training and respite. She will follow specifically regarding the issue of respite.

Janet Cramer updated that a Brattleboro Housing Authority committee has worked all summer on the housing plan for Melrose Terrace. There are up to possibly 250 housing units to replace the housing that was flooded during Tropical Storm Irene. Moore Court housing for older adults and people with disabilities may move to Melrose Terrace. The funding will determine the design of the project, which includes safe streets. A $100,000 housing grant was submitted for the project.

Board members report that there continues to be problems with the processing of applications to for DCF programs, including Long-Term Care Medicaid and 3 Squares VT. Camille reminded board members that the DCF website provides various reports and updates on the status of modernization, and that Richard Giddings, Deputy Commissioner for DCF Economic Services has encouraged people to contact him with concerns. Camille will follow-up with Richard Giddings, Deputy Commissioner.

IV. Division of Licensing and Protection – Suzanne Leavitt and Fran Keeler

The mission of the Division of Licensing and Protection (DLP) is to ensure quality of care and quality of life to people receiving health care services from licensed or certified health care providers, through the Survey and Certification (S&C) program and to protect vulnerable adults from abuse, neglect and exploitation, through the Adult Protective Services (APS) program.

Survey and Certification: In the S&C program, there are 14 home-based nurse surveyors who are cross trained to survey different facilities; 2 complaint coordinators, and the Licensing Chief. The Licensing Chief, the Assistant Division Director, and the Division Director are all federally qualified surveyors who occasionally will conduct surveys as well. In a larger survey, surveyors from the CMS Boston Regional Office may also assist.

Nursing homes are required to be surveyed every 9-15 months, and the visit is supposed to be unpredictable. The number of surveys for a facility varies depending on the type of facility; however DLP surveys all facilities at least every 2 years. If there is an egregious complaint, S&C staff are there within 2 days. Adult Day Centers are not regulated by CMS, however, there are State Stands and those who wish to participate in DAIL programs (Choices for Care and/or Day Health Rehabilitation Services) are reviewed and must be certified by the Division of Disability and Aging Services (DDAS). In the future, CMS may require that the State survey agency also conduct surveys of Community Mental Health Centers. This would represent a change for DLP and for providers.

Every 2 years, a special focus facility is picked to have an additional DLP surveys every 6 months. A state must have a certain percentage of facilities at 1, 2, 3, etc up to 5. The facility that is designated is one of the 5 lowest facilities on this scale. (While a facility may be one of the lowest 5 out of the facilities in Vermont, they could have a higher rating if they were in a different state.) The facility must receive a special survey outcome in order to graduate from this program. If they do not graduate from this program, CMS will determine if they will stop them from the program.

If a provider wants to contest the findings, they can request an Independent Informal Dispute Resolution by submitting the request to Fran Keeler and Laura Pelosi (VT Health Care Association). Laura, medical providers, and nursing home providers make up the independent panel review.

Information from a survey is entered into a Federal CMS database. Once this information is entered into the system, it belongs to the Federal government and it takes a long time to obtain this information back for records requests. Whenever a statement of deficiency is issued, the findings are posted on the DLP website once the plan of correction has been found to be acceptable.

Every year, a mission priority document is sent by the federal government about tier 1 work, tier 2 work, and tier 3 work. If DLP does not complete the tier 3 work, the federal government will take back some of their funding.

CMS has a strong push about dealing with excessive and/or inappropriate use of antipsychotic medications. Organization such as the Vermont Health Care Association (VHCA) and other national groups are working together with CMS to reduce the inappropriate use by 15% by end of calendar year 2012. An Elder Task Force, co-chaired by VHCA, is working on this issue.

Adult Protective Services: There are currently 12 permanent investigator positions (2 have resigned; however, there are 2 exceptional candidates who will be offered these positions); 2 intake positions (1 new staff person will begin on Monday) – in which one intake position will be Sunday through Thursday to meet mandated requirements; and a Program Chief. In the meantime, Suzanne, APS Chief Veda Lyon, Program Specialist Katherine Evans, and Harmony Administrator Tammy Wehmeyer have been coming in on Sundays to fill that need.

The Adult Protective Services (APS) has completed a lot of work in the last year. There is a newly developed financial exploitation unit that was formed in February 2012, in which 2 investigators are proficient and act as a resource for other investigators. The financial exploitation unit works with law enforcement and banks. APS has a new Harmony Database system that enables spot checks on cases, as needed, and creates different reports. DLP will be submitting a contract amendment to add additional creation of reports, as not all the data reports that we want are available at this time. DLP has also been meeting with AAAs, community education programs, LTC Ombudsman, the DAIL Advisory Board, and others with monthly outreach and community wide trainings.

After a report of abuse, neglect or exploitation, DLP has 5 days to get back to reporter, in writing, to inform them of the disposition of their report, once a determination has been made about how to proceed (to open and investigate, or to close as a contact). An incomplete report means the Intake/Screener will not be able to screen/commence the investigation until all the pertinent information is received. Once all of the pertinent information is received and the decision has been made to open and investigate the report, APS must commence an investigation within 48 hours. Mandated reporters MUST report within 48 hours.